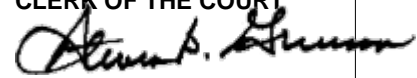


Exhibit 1- Complaint

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Steven D. Grierson
CLERK OF THE COURT



COMJD

STEVEN H. BURKE, ESQ.
Nevada Bar No. 14037
LAW OFFICE OF STEVEN H. BURKE, LLC
D.B.A. THE 808 FIRM
9205 W. Russell Road, Suite 240
Las Vegas, Nevada 89148
T: 702-793-4369 | F: 702-793-4301
Email: stevenburkelaw@gmail.com

CASE NO: A-21-829501-C
Department 1

Attorney for Plaintiff

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LIKA FUENTES, an individual

Plaintiff,

vs.

GYPSUM RESOURCES MATERIALS
LLC.; DOES I through X; and ROE
Corporations XI through XX, inclusive,

Defendant.

Case No.
Dept. No.

COMPLAINT WITH JURY DEMAND

COMPLAINT

COMES NOW Lika Fuentes (“Plaintiff” or “Ms. Fuentes”), by and through her attorney, Steven H. Burke, Esq. of Law Office of Steven H. Burke, and hereby files her Complaint and complains of Defendant Gypsum Resources Materials LLC (“Defendant” or “Steelman”) as follows:

VENUE AND JURISDICTION

1. This is a civil action for damages under state and federal laws prohibiting unlawful employment actions and to secure the protection of and to redress deprivation of rights under these laws.

2. Jurisdiction and venue are based upon federal and state law.

3. Jurisdiction and venue are also proper based upon Plaintiff’s claims under Nevada state and common law.

1 4. Plaintiff hereby designates Clark County as the venue for this proceeding per NRS
2 § 13.040 and files in the Eighth Judicial District Court accordingly.

3 5. The alleged unlawful employment actions occurred in this judicial district.

4 **PARTIES**

5 6. At all times relevant, Plaintiff is and was an individual residing in Clark County,
6 Nevada.

7 7. At all times relevant, Defendant is and was a Nevada Limited Liability Company
8 created under the laws of the State of Nevada.

9 8. At all times relevant, Defendant was conducting business in Clark County,
10 Nevada.

11 9. At all times relevant, Defendant had custody and/or control over Plaintiff and her
12 employment, and Defendant was responsible for Plaintiff's labor and employment matters.

13 10. At all times relevant, Plaintiff was an employee of Defendant as that term is
14 defined in NRS Chapter 608, NRS Chapter 613, 29 U.S.C. § 203, and 42 U.S.C. § 2000e.

15 11. At all times relevant, Defendant was Plaintiff's employer as that term is defined in
16 NRS Chapter 608, NRS Chapter 613, 29 U.S.C. § 203, and 42 U.S.C. § 2000e.

17 12. The true names and capacities, whether individual, corporate, associate or
18 otherwise of other Defendants hereinafter designated as Does I-X and Roe Corporations XI-XX,
19 inclusive, who are in some manner responsible for the injuries described herein, and who were,
20 upon information and belief, Plaintiff's "employer" is unknown to Plaintiff at this time who
21 therefore sues said Defendants by such fictitious names and will seek leave of the Court to amend
22 this Amended Complaint to show their true names and capacities when ascertained.

23 13. Plaintiff hereby demands a jury trial on all issues triable by jury herein.

24 **PROCEDUARL REQUIREMENTS**

25 14. Plaintiff has satisfied all administrative and jurisdictional requirements necessary
26 to maintain this lawsuit. Plaintiff timely filed her charge of discrimination with the Nevada Equal
27 Rights Commission ("NERC") on or about March 10, 2020. *See* a true and correct copy of
28 Plaintiff's Charge of Discrimination attached hereto as **Exhibit 1**.

FACTUAL ALLEGATIONS

27. Ms. Fuentes worked many extra hours that she was not compensated for.

1 28. Defendant often times paid Ms. Fuentes late and her payroll checks would often
2 times be returned for insufficient funds.

3 29. Ms. Fuentes made internal complaints to Defendant about Manager's
4 discriminatory actions and disparate treatment.

5 30. Upon information and belief, Defendant did not investigate Ms. Fuentes'
6 complaints about Manager.

7 31. On or about November 18, 2019, Ms. Fuentes returned to work after an approved
8 FMLA maternity leave.

9 32. On or about December 2, 2019, Defendant terminated Ms. Fuentes.

10 33. Defendant's termination of Ms. Fuentes occurred a short time after she made
11 internal complaints and a short time after she returned to work after her pregnancy.

12 34. Defendant's proffered reason of terminating Ms. Fuentes was a reduction in work
13 force.

14 35. Defendant's proffered reason for termination was pretextual.

15 **FIRST CAUSE OF ACTION**
16 **SEX DISCRIMINATION/HARASSMENT**
17 **TITLE VII 42 U.S.C. § 2000(e) et seq. / NRS § 613.330**

18 36. Ms. Fuentes hereby realleges and incorporates each and every allegation
19 previously made herein.

20 37. As set forth fully herein, Ms. Fuentes was subjected to unwelcome sexual
21 harassment and/or discrimination.

22 38. As set forth fully herein, Ms. Fuentes is a member of a protected class, female

23 39. Defendant discriminated, harassed, and terminated Ms. Fuentes on the basis of her
24 sex.

25 40. Defendant committed unlawful actions, including but not limited to, sexually
26 explicit comments, inappropriate touching of Ms. Fuentes, and harassment of Ms. Fuentes as a
27 female. Such actions constitute unlawful sex discrimination and harassment.

28 41. Defendant's unlawful conduct that Ms. Fuentes was forced to endure was so severe

1 and pervasive that it was frequent, humiliating, and interfered with Ms. Fuentes' ability to work.

2 42. Defendant's sexual conduct was sufficiently severe or pervasive as to alter the
3 compensation, terms, conditions and privileges of Ms. Fuentes' employment.

4 43. Defendant, through its agents, became aware of sexual harassment and/or
5 discrimination that Ms. Fuentes experienced and took no action to stop it.

6 44. Given the aforementioned, Defendant's conduct was so severe and pervasive as to
7 constitute an objective abusive hostile work environment in violation of Title VII, 42 U.S.C.
8 §2000(e) *et seq.* Defendant, in creating, condoning, and perpetuating a sexually hostile work
9 environment, has engaged in a discriminatory practice with discriminatory hostility upon Ms.
10 Fuentes' status as a female, with malice or reckless indifference to Ms. Fuentes' federally
11 protected rights.

12 45. All of Defendant's unlawful actions described herein were done willfully and
13 intentionally and in reckless disregard of Ms. Fuentes' protected rights under federal law.

14 46. As a direct and proximate result of Defendant's unlawful activity, Ms. Fuentes has
15 sustained damages in excess of Fifteen Thousand Dollars (\$15,000.00).

16 47. The conduct of Defendant has been malicious, fraudulent or oppressive and was
17 designed to vex, annoy, harass or humiliate Ms. Fuentes and, thus, Ms. Fuentes is entitled to
18 punitive damages.

19 48. As a result of Defendant's conduct, as set forth herein, Ms. Fuentes has been
20 required to retain the services of an attorney and, as a direct, natural, and foreseeable consequence
21 thereof, has been damaged thereby, and is entitled to reasonable attorney's fees and costs.

22 **SECOND CAUSE OF ACTION**
23 **RETALIATION**

24 **42 U.S.C. § 12203 / 42 U.S.C. § 12101e *et seq.* / NRS § 613.340**

25 49. Ms. Fuentes hereby realleges and incorporates each and every allegation
26 previously made herein.

27 50. As set forth more fully above, Defendant retaliated against Ms. Fuentes when she
28 opposed discrimination and unlawful conduct, in good faith, as detailed in her internal

1 complaint(s) and/or discussion(s) with Defendant.

2 51. There exists a temporal proximity in relation to Ms. Fuentes's complaints of
3 unlawful discrimination and Ms. Fuentes's resulting termination.

4 52. Defendant retaliated against Ms. Fuentes when she opposed discrimination and
5 unlawful conduct by terminating Ms. Fuentes and subjecting her to harassing behavior.

6 53. Defendant's retaliatory action was in response to Ms. Fuentes' opposition to
7 Defendant's unlawful discrimination.

8 54. Defendant's termination of Ms. Fuentes constituted a retaliatory discharge in
9 violation of 42 U.S.C. §2000(e) *et seq.*, and NRS § 613.340.

10 55. By taking these adverse actions, Defendant has engaged in discriminatory practices
11 with malice and/or with reckless disregard to Ms. Fuentes's protected rights. As a result, Ms.
12 Fuentes has been damaged.

13 56. As a direct and proximate result of Defendant's unlawful activity, Ms. Fuentes has
14 sustained damages in excess of Fifteen Thousand Dollars (\$15,000.00).

15 57. Defendant has acted willfully and maliciously, and with oppression, fraud, or
16 malice, and as a result of Defendant's wrongful conduct, Ms. Fuentes is entitled to an award of
17 exemplary or punitive damages.

18 58. As a result of Defendant's conduct, as set forth herein, Ms. Fuentes has been
19 required to retain the services of an attorney and, as a direct, natural, and foreseeable consequence
20 thereof, has been damaged thereby, and is entitled to reasonable attorney's fees and costs.

21 **THIRD CAUSE OF ACTION**
22 **NEGLIGENT HIRING, TRAINING, AND SUPERVISION**

23 59. Ms. Fuentes hereby realleges and incorporates each and every allegation
24 previously made herein.

25 60. Defendant breached its duty of reasonable care to protect Ms. Fuentes from the
26 negligent and/or careless actions of their own agents, officers, employees, customers and others.

27 61. Defendant breached its duty of reasonable care by hiring individuals with a
28 propensity towards committing unlawful acts against Ms. Fuentes.

62. Defendant breached its duty of reasonable care by failing to adequately train and supervise their employees by with lawful policies and procedures of discrimination, harassment, and retaliation.

63. As a direct and proximate result of Defendant's conduct described hereinabove, Ms. Fuentes has been damaged in an amount in excess of Fifteen Thousand Dollars (\$15,000).

64. As a result of Defendant's conduct, as set forth herein, Ms. Fuentes has been required to retain the services of an attorney, and, as a direct, natural, and foreseeable consequence thereof, has been damaged thereby, and is entitled to reasonable attorney's fees and costs.

65. Defendant acted willfully and maliciously, and with oppression, fraud, or malice, and a result of Defendant's wrongful conduct, Ms. Fuentes is entitled to an award of exemplary or punitive damages.

FOURTH CAUSE OF ACTION
VIOLATION OF THE FAIR LABOR STANDARDS ACT
WAGES 29 U.S.C. §203 et seq.

66. Ms. Fuentes hereby realleges and incorporates each and every allegation previously made herein.

67. This count arises from Defendant's violation of the FLSA, 29 U.S.C. § 201 *et seq.*, for its failure to pay Ms. Fuentes minimum wage for each hour worked.

68. At all material times hereto, Ms. Fuentes was employed by Defendant as an "employee" within the meaning of §203(e)(1) of the FLSA.

69. Ms. Fuentes performed a variety of job duties and responsibilities for Defendant within this judicial district.

70. Ms. Fuentes performed labor and services that are subject to the aforesaid provisions of the FLSA and Ms. Fuentes was an employee of Defendant during the time period pertinent to this Complaint.

71. At all material times hereto, Defendant was Ms. Fuentes's "employer" per the FLSA, 29 U.S.C. §203(d).

72. At all times relevant and during the course of her employment for Defendant, Ms.

1 Fuentes was employed by Defendant and was not exempt from the minimum wage provisions of
2 the FLSA.

3 73. Pursuant to 29 U.S.C. § 206, Ms. Fuentes was entitled to be compensated at a rate
4 of minimum wage for each hour worked.

5 74. Defendant did not pay Ms. Fuentes the proscribed minimum compensation for
6 such work.

7 75. Defendant's failure and refusal to pay lawful wages, to Ms. Fuentes violated the
8 FLSA, 29 U.S.C. §§ 206-07, et seq.

9 76. Defendant willfully violated the FLSA by refusing to pay Ms. Fuentes all lawful
10 wages that she earned.

11 77. All of the alleged various violations of the law herein were committed
12 intentionally and/or willfully by Defendant herein.

13 78. Per the FLSA, Ms. Fuentes seeks all available damages including but not limited to
14 attorneys' fees, liquidated damages, and all lawful wages.

15 79. Ms. Fuentes seeks a judgment for unpaid minimum wages and overtime
16 compensation, and additional liquidated damages of 100% of any unpaid minimum wage
17 compensation, such sums to be determined based upon an accounting of the hours worked by, and
18 wages actually paid to Ms. Fuentes.

19 **FIFTH CAUSE OF ACTION**
20 **FAILURE TO PAY WAGES**
21 **NEVADA CONSTITUTION / NRS § 608.05 et seq.**

22 80. Ms. Fuentes hereby realleges and incorporates each and every allegation
23 previously made herein.

24 81. Pursuant to Article 15, Section 16 of the Nevada Constitution, and/or NRS §
25 608.018, et. seq., Ms. Fuentes was entitled to receive lawful minimum wage.

26 82. Upon information and belief, Defendant did not maintain all personnel records as
27 required under NRS § 608.115.

28 83. Defendant did not pay Ms. Fuentes the proscribed minimum compensation for

1 such work.

2 84. Specifically, Defendant's refusal to compensate Ms. Fuentes for all her
3 commission earned is an unlawful deduction under NRS §608 *et seq.*

4 85. Defendant's failure and refusal to pay lawful wages to Ms. Fuentes violated the
5 Nevada Constitution and NRS § 608 *et seq.*

6 86. Defendant's failure to pay Ms. Fuentes for all wages earned is also an unlawful
7 decrease under NRS § 608.100.

8 87. As a result of the foregoing, Ms. Fuentes seeks a judgment against Defendant for
9 the wages owed to her as prescribed by NRS § 608.140, to wit, for a sum equal to up to thirty
10 days' wages, along with interest, costs and attorney's fees.

11 88. Further, Ms. Fuentes seeks all damages under NRS § 608.115 for failure to
12 maintain appropriate personnel records.

13 89. Ms. Fuentes also seeks all damages under NRS § 608.100 for an unlawful decrease
14 of compensation.

15 90. As a direct proximate result of Defendants' failure to pay lawful wages to Ms.
16 Fuentes, she has suffered general, special, and consequential damages in an amount in excess of
17 Fifteen Thousand Dollars (\$15,000.00).

18 91. Defendant's acts and/or omissions were fraudulent, malicious, and/or oppressive
19 under NRS § 42.005 and as such Ms. Fuentes is entitled to an award of punitive damages in
20 excess of Fifteen Thousand Dollars (\$15,000.00).

21 92. It was necessary for Ms. Fuentes to retain the services of an attorney to file this
22 action, which entitles Ms. Fuentes to an award of reasonable attorneys' fees and costs in this suit.

23 **WHEREFORE**, Plaintiff prays for judgment against Defendant as follows:

- 24 1. For general damages in excess of \$15,000.00;
- 25 2. For special damages;
- 26 3. For consequential damages;
- 27 4. For punitive damages;
- 28 5. For all damages and relief owed to Plaintiff under the Nevada Constitution and

1 Nevada law;

2 6. For attorneys' fees and costs incurred in this action; and

3 7. Such other and further relief as the Court may deem just and proper.

4 DATED this 16th day of February, 2021.

5
6 LAW OFFICE OF STEVEN H. BURKE

7 By: /s/ Steven H. Burke
8 STEVEN H. BURKE, ESQ.
9 Nevada Bar No.: 14037
10 9205 W. Russell Rd., Ste. 240
11 Las Vegas, Nevada 89148
12 T: 702-793-4369 | F: 702-793-4301
13 Email: stevenburkelaw@gmail.com
14 *Attorney for Plaintiff*


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Law Office of Steven H. Burke, LLC
d.b.a. The 808 Firm
9205 W. Russell Rd., Ste. 240, Las Vegas, NV. 89148
TEL.: (702) 793-4369 FAX: (702) 793-4301

EXHIBIT “1”

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div> <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC </div> <div style="text-align: right;"> 487-2020-00528 </div> </div>	
Nevada Equal Rights Commission and EEOC <small>State or local Agency, if any</small>			
Name (indicate Mr., Ms., Mrs.) Ms. Lika K. Fuentes		Home Phone (Incl. Area Code) (808) 265-9253	Date of Birth 1989
Street Address City, State and ZIP Code 2300 E Silverado Ranch Blvd. Apt. 1054, Las Vegas, NV 89183			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name GYPSUM RESOURCES MATERIALS LLC.		No. Employees, Members 500 or More	Phone No. (Include Area Code) (800) 898-4274
Street Address City, State and ZIP Code 8912 Spanish Ridge Avenue, Suite 200, Las Vegas, NV 89148			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; flex-wrap: wrap; padding: 5px;"> <div style="margin-right: 10px;"><input type="checkbox"/> RACE</div> <div style="margin-right: 10px;"><input type="checkbox"/> COLOR</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> SEX</div> <div style="margin-right: 10px;"><input type="checkbox"/> RELIGION</div> <div style="margin-right: 10px;"><input type="checkbox"/> NATIONAL ORIGIN</div> <div style="margin-right: 10px;"><input checked="" type="checkbox"/> RETALIATION</div> <div style="margin-right: 10px;"><input type="checkbox"/> AGE</div> <div style="margin-right: 10px;"><input type="checkbox"/> DISABILITY</div> <div style="margin-right: 10px;"><input type="checkbox"/> GENETIC INFORMATION</div> <div style="margin-right: 10px;"><input type="checkbox"/> OTHER (Specify)</div> </div>		DATE(S) DISCRIMINATION TOOK PLACE <div style="display: flex; justify-content: space-between;"> <div>Earliest 07-29-2019</div> <div>Latest 12-02-2019</div> </div> <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> CONTINUING ACTION </div>	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>On or about July 29, 2019, I was hired by Gypsum Resources Materials, LLC. in the position of Driver. My last position held was Safety Manager. Throughout my employment, I was sexually harassed by Manager, Dino LNU. Such as, but not limited to, Dino LNU subjecting me to sexually explicit comments on a constant basis, trying to hug me, putting his hands on me, trying to touch my lower back, trying to massage my shoulders, saying I looked sexier now that I am not pregnant, and that he wanted to sleep with me. I informed Human Resources, Marie Halliday, and my Supervisor, Erik Zhicalyuk, of the hostile work environment; however, no action was taken to investigate or to promptly correct. On or about December 02, 2019, I was discharged and was given the reason of a reduction in force.</p> <p>I believe I was discriminated against because of my Sex (Female), and Retaliated against for engaging in a protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended.</p> <p>I believe that a class of individuals were discriminated against due to their Sex (Female) and Retaliated against for engaging in a protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended.</p>			

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY – When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT	
<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> 3-10-20 <small>Date</small> </div> <div style="text-align: center;">  <small>Charging Party Signature</small> </div> </div>		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE <small>(month, day, year)</small>	

1 28. Defendant often times paid Ms. Fuentes late and her payroll checks would often
2 times be returned for insufficient funds.

3 29. Ms. Fuentes made internal complaints to Defendant about Manager's
4 discriminatory actions and disparate treatment.

5 30. Upon information and belief, Defendant did not investigate Ms. Fuentes'
6 complaints about Manager.

7 31. On or about November 18, 2019, Ms. Fuentes returned to work after an approved
8 FMLA maternity leave.

9 32. On or about December 2, 2019, Defendant terminated Ms. Fuentes.

10 33. Defendant's termination of Ms. Fuentes occurred a short time after she made
11 internal complaints and a short time after she returned to work after her pregnancy.

12 34. Defendant's proffered reason of terminating Ms. Fuentes was a reduction in work
13 force.

14 35. Defendant's proffered reason for termination was pretextual.

15 **FIRST CAUSE OF ACTION**
16 **SEX DISCRIMINATION/HARASSMENT**
17 **TITLE VII 42 U.S.C. § 2000(e) et seq. / NRS § 613.330**

18 36. Ms. Fuentes hereby realleges and incorporates each and every allegation
19 previously made herein.

20 37. As set forth fully herein, Ms. Fuentes was subjected to unwelcome sexual
21 harassment and/or discrimination.

22 38. As set forth fully herein, Ms. Fuentes is a member of a protected class, female

23 39. Defendant discriminated, harassed, and terminated Ms. Fuentes on the basis of her
24 sex.

25 40. Defendant committed unlawful actions, including but not limited to, sexually
26 explicit comments, inappropriate touching of Ms. Fuentes, and harassment of Ms. Fuentes as a
27 female. Such actions constitute unlawful sex discrimination and harassment.

28 41. Defendant's unlawful conduct that Ms. Fuentes was forced to endure was so severe

1 and pervasive that it was frequent, humiliating, and interfered with Ms. Fuentes' ability to work.

2 42. Defendant's sexual conduct was sufficiently severe or pervasive as to alter the
3 compensation, terms, conditions and privileges of Ms. Fuentes' employment.

4 43. Defendant, through its agents, became aware of sexual harassment and/or
5 discrimination that Ms. Fuentes experienced and took no action to stop it.

6 44. Given the aforementioned, Defendant's conduct was so severe and pervasive as to
7 constitute an objective abusive hostile work environment in violation of Title VII, 42 U.S.C.
8 §2000(e) *et seq.* Defendant, in creating, condoning, and perpetuating a sexually hostile work
9 environment, has engaged in a discriminatory practice with discriminatory hostility upon Ms.
10 Fuentes' status as a female, with malice or reckless indifference to Ms. Fuentes' federally
11 protected rights.

12 45. All of Defendant's unlawful actions described herein were done willfully and
13 intentionally and in reckless disregard of Ms. Fuentes' protected rights under federal law.

14 46. As a direct and proximate result of Defendant's unlawful activity, Ms. Fuentes has
15 sustained damages in excess of Fifteen Thousand Dollars (\$15,000.00).

16 47. The conduct of Defendant has been malicious, fraudulent or oppressive and was
17 designed to vex, annoy, harass or humiliate Ms. Fuentes and, thus, Ms. Fuentes is entitled to
18 punitive damages.

19 48. As a result of Defendant's conduct, as set forth herein, Ms. Fuentes has been
20 required to retain the services of an attorney and, as a direct, natural, and foreseeable consequence
21 thereof, has been damaged thereby, and is entitled to reasonable attorney's fees and costs.

22 **SECOND CAUSE OF ACTION**
23 **RETALIATION**

24 **42 U.S.C. § 12203 / 42 U.S.C. § 12101e *et seq.* / NRS § 613.340**

25 49. Ms. Fuentes hereby realleges and incorporates each and every allegation
26 previously made herein.

27 50. As set forth more fully above, Defendant retaliated against Ms. Fuentes when she
28 opposed discrimination and unlawful conduct, in good faith, as detailed in her internal

1 complaint(s) and/or discussion(s) with Defendant.

2 51. There exists a temporal proximity in relation to Ms. Fuentes's complaints of
3 unlawful discrimination and Ms. Fuentes's resulting termination.

4 52. Defendant retaliated against Ms. Fuentes when she opposed discrimination and
5 unlawful conduct by terminating Ms. Fuentes and subjecting her to harassing behavior.

6 53. Defendant's retaliatory action was in response to Ms. Fuentes' opposition to
7 Defendant's unlawful discrimination.

8 54. Defendant's termination of Ms. Fuentes constituted a retaliatory discharge in
9 violation of 42 U.S.C. §2000(e) *et seq.*, and NRS § 613.340.

10 55. By taking these adverse actions, Defendant has engaged in discriminatory practices
11 with malice and/or with reckless disregard to Ms. Fuentes's protected rights. As a result, Ms.
12 Fuentes has been damaged.

13 56. As a direct and proximate result of Defendant's unlawful activity, Ms. Fuentes has
14 sustained damages in excess of Fifteen Thousand Dollars (\$15,000.00).

15 57. Defendant has acted willfully and maliciously, and with oppression, fraud, or
16 malice, and as a result of Defendant's wrongful conduct, Ms. Fuentes is entitled to an award of
17 exemplary or punitive damages.

18 58. As a result of Defendant's conduct, as set forth herein, Ms. Fuentes has been
19 required to retain the services of an attorney and, as a direct, natural, and foreseeable consequence
20 thereof, has been damaged thereby, and is entitled to reasonable attorney's fees and costs.

21 **THIRD CAUSE OF ACTION**
22 **NEGLIGENT HIRING, TRAINING, AND SUPERVISION**

23 59. Ms. Fuentes hereby realleges and incorporates each and every allegation
24 previously made herein.

25 60. Defendant breached its duty of reasonable care to protect Ms. Fuentes from the
26 negligent and/or careless actions of their own agents, officers, employees, customers and others.

27 61. Defendant breached its duty of reasonable care by hiring individuals with a
28 propensity towards committing unlawful acts against Ms. Fuentes.

62. Defendant breached its duty of reasonable care by failing to adequately train and supervise their employees by with lawful policies and procedures of discrimination, harassment, and retaliation.

63. As a direct and proximate result of Defendant's conduct described hereinabove, Ms. Fuentes has been damaged in an amount in excess of Fifteen Thousand Dollars (\$15,000).

64. As a result of Defendant's conduct, as set forth herein, Ms. Fuentes has been required to retain the services of an attorney, and, as a direct, natural, and foreseeable consequence thereof, has been damaged thereby, and is entitled to reasonable attorney's fees and costs.

65. Defendant acted willfully and maliciously, and with oppression, fraud, or malice, and a result of Defendant's wrongful conduct, Ms. Fuentes is entitled to an award of exemplary or punitive damages.

FOURTH CAUSE OF ACTION
VIOLATION OF THE FAIR LABOR STANDARDS ACT
WAGES 29 U.S.C. §203 et seq.

66. Ms. Fuentes hereby realleges and incorporates each and every allegation previously made herein.

67. This count arises from Defendant's violation of the FLSA, 29 U.S.C. § 201 *et seq.*, for its failure to pay Ms. Fuentes minimum wage for each hour worked.

68. At all material times hereto, Ms. Fuentes was employed by Defendant as an "employee" within the meaning of §203(e)(1) of the FLSA.

69. Ms. Fuentes performed a variety of job duties and responsibilities for Defendant within this judicial district.

70. Ms. Fuentes performed labor and services that are subject to the aforesaid provisions of the FLSA and Ms. Fuentes was an employee of Defendant during the time period pertinent to this Complaint.

71. At all material times hereto, Defendant was Ms. Fuentes's "employer" per the FLSA, 29 U.S.C. §203(d).

72. At all times relevant and during the course of her employment for Defendant, Ms.

1 Fuentes was employed by Defendant and was not exempt from the minimum wage provisions of
2 the FLSA.

3 73. Pursuant to 29 U.S.C. § 206, Ms. Fuentes was entitled to be compensated at a rate
4 of minimum wage for each hour worked.

5 74. Defendant did not pay Ms. Fuentes the proscribed minimum compensation for
6 such work.

7 75. Defendant's failure and refusal to pay lawful wages, to Ms. Fuentes violated the
8 FLSA, 29 U.S.C. §§ 206-07, et seq.

9 76. Defendant willfully violated the FLSA by refusing to pay Ms. Fuentes all lawful
10 wages that she earned.

11 77. All of the alleged various violations of the law herein were committed
12 intentionally and/or willfully by Defendant herein.

13 78. Per the FLSA, Ms. Fuentes seeks all available damages including but not limited to
14 attorneys' fees, liquidated damages, and all lawful wages.

15 79. Ms. Fuentes seeks a judgment for unpaid minimum wages and overtime
16 compensation, and additional liquidated damages of 100% of any unpaid minimum wage
17 compensation, such sums to be determined based upon an accounting of the hours worked by, and
18 wages actually paid to Ms. Fuentes.

19 **FIFTH CAUSE OF ACTION**
20 **FAILURE TO PAY WAGES**
21 **NEVADA CONSTITUTION / NRS § 608.05 et seq.**

22 80. Ms. Fuentes hereby realleges and incorporates each and every allegation
23 previously made herein.

24 81. Pursuant to Article 15, Section 16 of the Nevada Constitution, and/or NRS §
25 608.018, et. seq., Ms. Fuentes was entitled to receive lawful minimum wage.

26 82. Upon information and belief, Defendant did not maintain all personnel records as
27 required under NRS § 608.115.

28 83. Defendant did not pay Ms. Fuentes the proscribed minimum compensation for

1 such work.

2 84. Specifically, Defendant's refusal to compensate Ms. Fuentes for all her
3 commission earned is an unlawful deduction under NRS §608 *et seq.*

4 85. Defendant's failure and refusal to pay lawful wages to Ms. Fuentes violated the
5 Nevada Constitution and NRS § 608 *et seq.*

6 86. Defendant's failure to pay Ms. Fuentes for all wages earned is also an unlawful
7 decrease under NRS § 608.100.

8 87. As a result of the foregoing, Ms. Fuentes seeks a judgment against Defendant for
9 the wages owed to her as prescribed by NRS § 608.140, to wit, for a sum equal to up to thirty
10 days' wages, along with interest, costs and attorney's fees.

11 88. Further, Ms. Fuentes seeks all damages under NRS § 608.115 for failure to
12 maintain appropriate personnel records.

13 89. Ms. Fuentes also seeks all damages under NRS § 608.100 for an unlawful decrease
14 of compensation.

15 90. As a direct proximate result of Defendants' failure to pay lawful wages to Ms.
16 Fuentes, she has suffered general, special, and consequential damages in an amount in excess of
17 Fifteen Thousand Dollars (\$15,000.00).

18 91. Defendant's acts and/or omissions were fraudulent, malicious, and/or oppressive
19 under NRS § 42.005 and as such Ms. Fuentes is entitled to an award of punitive damages in
20 excess of Fifteen Thousand Dollars (\$15,000.00).

21 92. It was necessary for Ms. Fuentes to retain the services of an attorney to file this
22 action, which entitles Ms. Fuentes to an award of reasonable attorneys' fees and costs in this suit.

23 **WHEREFORE**, Plaintiff prays for judgment against Defendant as follows:

- 24 1. For general damages in excess of \$15,000.00;
- 25 2. For special damages;
- 26 3. For consequential damages;
- 27 4. For punitive damages;
- 28 5. For all damages and relief owed to Plaintiff under the Nevada Constitution and

1 Nevada law;

2 6. For attorneys' fees and costs incurred in this action; and

3 7. Such other and further relief as the Court may deem just and proper.

4 DATED this 16th day of February, 2021.

5
6 LAW OFFICE OF STEVEN H. BURKE

7 By: /s/ Steven H. Burke
8 STEVEN H. BURKE, ESQ.
9 Nevada Bar No.: 14037
10 9205 W. Russell Rd., Ste. 240
11 Las Vegas, Nevada 89148
12 T: 702-793-4369 | F: 702-793-4301
13 Email: stevenburkelaw@gmail.com
14 *Attorney for Plaintiff*

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Law Office of Steven H. Burke, LLC
d.b.a. The 808 Firm
9205 W. Russell Rd., Ste. 240, Las Vegas, NV. 89148
TEL.: (702) 793-4369 FAX: (702) 793-4301

EXHIBIT “1”

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: _____ Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 487-2020-00528	
Nevada Equal Rights Commission and EEOC <small>State or local Agency, if any</small>			
Name (indicate Mr., Ms., Mrs.) Ms. Lika K. Fuentes		Home Phone (Incl. Area Code) (808) 265-9253	Date of Birth 1989
Street Address City, State and ZIP Code 2300 E Silverado Ranch Blvd. Apt. 1054, Las Vegas, NV 89183			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name GYPSUM RESOURCES MATERIALS LLC.		No. Employees, Members 500 or More	Phone No. (Include Area Code) (800) 898-4274
Street Address City, State and ZIP Code 8912 Spanish Ridge Avenue, Suite 200, Las Vegas, NV 89148			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 07-29-2019 12-02-2019 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>On or about July 29, 2019, I was hired by Gypsum Resources Materials, LLC. in the position of Driver. My last position held was Safety Manager. Throughout my employment, I was sexually harassed by Manager, Dino LNU. Such as, but not limited to, Dino LNU subjecting me to sexually explicit comments on a constant basis, trying to hug me, putting his hands on me, trying to touch my lower back, trying to massage my shoulders, saying I looked sexier now that I am not pregnant, and that he wanted to sleep with me. I informed Human Resources, Marie Halliday, and my Supervisor, Erik Zhicalyuk, of the hostile work environment; however, no action was taken to investigate or to promptly correct. On or about December 02, 2019, I was discharged and was given the reason of a reduction in force.</p> <p>I believe I was discriminated against because of my Sex (Female), and Retaliated against for engaging in a protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended.</p> <p>I believe that a class of individuals were discriminated against due to their Sex (Female) and Retaliated against for engaging in a protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended.</p>			

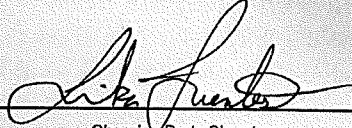
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY – When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT	
<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> 3-10-20 <small>Date</small> </div> <div style="text-align: center;">  <small>Charging Party Signature</small> </div> </div>		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE <small>(month, day, year)</small>	

EXHIBIT “2”

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Lika K. Fuentes**
2300 E Silverado Ranch Blvd. Apt. 1054
Las Vegas, NV 89183

From: **Las Vegas Local Office**
333 Las Vegas Blvd South
Suite 5560
Las Vegas, NV 89101



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

487-2020-00528

Juan N. Serrata,
Investigator

(702) 553-4459

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

Tamara M. West
 Director of the Commission
 Equal Employment Opportunity
 U.S. Department of Labor
 1915 K Street, N.W.
 Washington, D.C. 20503
 Phone: (202) 693-6000
 TDD: (202) 693-6000
 Email: tamara.west@eoc.gov, c=US
 Date: 2020.11.19 09:46:51 -0800

Enclosures(s)

Tamara M. West,
Local Office Director

(Date Mailed)

cc:

Morgan Fashtchi
GYPSUM RESOURCES MATERIALS, LLC.
8912 Spanish Ridge Avenue, Suite 200
Las Vegas, NV 89148